

KAR 28-4, 28-4-550 to 572

Kansas Department of Health and Environment
Permanent Administrative Regulations
Infant and Toddler Program

28-4-550. Definitions.

(a) "Center-based" means sites designed primarily for young children with disabilities to receive early intervention services.

(b) "Child find" means public and professional activities, including awareness activities, for the purpose of identifying the potential need for early intervention services.

(c) "Collaboration" means the establishment and maintenance of open communication and cooperative working relationships among service providers and other caregivers and the family when identifying goals and delivering care to children.

(d) "Community" means an interacting population of various kinds of individuals in a common location.

(1) Families may define their communities in different ways depending on the type, intensity, and frequency of their needs and their culturally specific values.

(2) A community may exist at local, regional, or national levels.

(3) Local community means the geographic service area as defined by the local council.

(4) The service area may be defined using various boundaries, including city, county, parts of counties, or multi-county regions.

(e) "Community-based" means places where small groups of infants and toddlers without disabilities are typically found, including child care centers or family day care.

(f) "Continuing education experience" means the following:

(1) college and university course work after obtaining the professional credential; or

(2) an inservice, workshop, or conference that offers approved professional continuing education credit.

(g) "Developmental delay" means any of the following conclusions obtained using the appropriate standardized instruments and procedures in one or more areas of development, including cognitive, physical, communication, social or emotional, or adaptive development.

(1) There is a discrepancy of 25 percent or more between chronological age, after correction for prematurity and developmental age in any one area.

(2) The child is functioning at 1.5 standard deviations below the mean in any one area.

(3) There are delays of at least 20 percent or at least one standard deviation below the mean in two or more areas.

(4) The clinical judgment of the multidisciplinary team concludes that a developmental delay exists when specific tests are not available or when testing does not reflect the child's actual performance. The professional in the area or areas of delay shall be a member of the team.

(h) "Eligible" means that children, from birth through two years, have one of the following:

(1) a developmental delay or a known condition leading to a developmental delay; or
(2) an established risk for developmental delay, which is a diagnosed mental or physical condition that has a high probability of resulting in developmental delay. The delay may or may not be exhibited at the time of diagnosis, but the common history of the disorder indicates the need for early intervention services.

(i) "Family" means those persons identified by the parent or parents of an infant or a toddler with special needs to be "family" in developing the individualized family service plan (IFSP) and early intervention services.

(j) "Home-based" means a site identified by the family as the home where individual services for a child and family are delivered.

(k) "Individualized family service plan (IFSP)" means a written plan for providing early intervention services to an eligible child and the child's family.

(l) "Local fiscal agency" means a legal entity that assures compliance with the infant-toddler part of IDEA grant award and maintains an accounting system that meets the requirement for generally accepted accounting principles for recording receipts, obligations, and disbursements of grant funds.

(m) "Local lead agency" means a local agency designated by the local council and acknowledged by the secretary of the lead agency to coordinate agencies, institutions, and organizations used by the local community to carry out its responsibilities for providing services to children from birth through age two who need early intervention services.

(n) "Mediation" means the community-based process by which participants, together with the assistance of a neutral person, move toward resolution or resolve a dispute within the community through discussion of options, alternatives, and negotiation.

(o) "Infant-Toddler Part" means the portion of IDEA that describes the grant program for states to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(p) "Records" means reports, letters, or other documents that are collected, maintained, or used by the agency in the screening, evaluation, and development of the individualized family service plan or in the delivery of services, or both.

(q) "Referral" means a transfer of information to determine eligibility, or to initiate or continue early intervention services.

(r) "Screening" means a brief procedure administered by qualified personnel to identify a child who needs an evaluation. The five developmental domains to screen are the following:

- (1) Cognitive development;
- (2) physical development, including health and nutrition, motor, vision, and hearing;
- (3) communication development;
- (4) social or emotional development; and
- (5) adaptive development.

(s) "Screening process" means the clinical observation of or the use of a developmentally appropriate screening tool to study a presumed normal population of infants and toddlers, which

may initiate a referral for evaluation. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-551. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-552. Screening activities.

- (a) Families may choose to have their child evaluated, rather than screened.
- (b) Certain conditions, such as Down syndrome, indicate the need for evaluation rather than screening.
- (c) Screening shall be available at least monthly.
- (d) Screening may be conducted in places where a child may be found in the course of regular activities, such as a home, child care center, or physician's office, or at community locations, such as a health department, school, or developmental center.
- (e) Written parental consent shall be required before screening.
- (f) Screening shall be conducted by a qualified person or by a qualified multidisciplinary team.
- (g) Screening shall include the five developmental domains.
- (h) Screening shall result in one of three possible outcomes:
 - (1) "pass," which means that no concerns were identified and the child is developing within normal limits;
 - (2) "questionable," which means that the results of the screening process were such that a rescreening is needed within a specified time; or
 - (3) "refer," which means that concerns were identified and a referral for evaluation shall be made within two working days.
- (i) Referral from the screening shall begin the 45-day timeline to complete the evaluation and assessment activities and hold an IFSP meeting.
- (j) Screening shall be provided at no cost to families. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-553 to 28-4-555. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-556. Family service coordination.

(a) Each child eligible for early intervention services and the child's family shall have a family service coordinator or co-coordinators.

(b) The number of children and families seen by a family service coordinator shall depend on factors such as the individualized needs of each child and family, including length of sessions, service delivery model, and transportation variables. Family service coordinators shall be monitored to determine if they are meeting the individualized needs of children and families.

(c) The family shall have the right to choose the family service coordinator, who may be from the profession most immediately relevant to the needs of the child and family, or another qualified individual. The family may request a change in coordinators.

(d) Parents shall be given the option of being co-coordinators.

(1) A parent may become qualified to perform all service functions carried out by a family service coordinator and provide the family service coordination service for another family, if the parent demonstrates appropriate competencies as identified by the Kansas department of health and environment.

(2) Parents may choose to reject family service coordination for their own child, when completely informed of the rights and responsibilities involved. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-557. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-558 to 28-4-563. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-564. Personnel standards.

(a) Early intervention services shall be provided by qualified personnel.

(b) Qualified personnel shall meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.

(1) Audiologists shall be licensed by the Kansas department of health and environment.

(2) Marriage and family therapists shall be registered by the state of Kansas as meeting requirements including a master's degree in marriage and family therapy or in a related field including social work, psychology, counseling, nursing, medicine, or theology.

(3) Nurses shall be licensed as registered professional nurses by the Kansas board of nursing.

(4) Nutritionists shall be licensed dietitians by the Kansas department of health and environment.

(5) Occupational therapists shall be registered by the Kansas board of healing arts.

(6) Orientation and mobility specialists shall be credentialed by meeting standards established by the association for education and rehabilitation of blind and visually impaired.

(7) Pediatricians and other physicians shall be licensed by the Kansas board of healing arts and board certified in the specialty area.

- (8) Physical therapists shall be registered by the Kansas board of healing arts.
- (9) Psychologists shall be either registered or licensed by the Kansas behavioral sciences regulatory board, or credentialed as school psychologists with early childhood endorsement by the Kansas state board of education.
- (10) Social workers shall be either licensed by the Kansas behavioral sciences regulatory board, or credentialed as school social workers with early childhood endorsement by the Kansas state board of education.
- (11) Special educators shall be certified in early childhood special education by the Kansas state board of education.
- (12) Speech-language pathologists shall be licensed by the Kansas department of health and environment.
- (13) Teachers of the hearing impaired shall be certified as a teacher of the hearing impaired with early childhood endorsement by the Kansas state board of education.
- (14) Teachers of the blind and visually impaired shall be certified as a teacher of the blind and visually impaired with early childhood endorsement by the Kansas state board of education.

(c) Continuing education experience shall be required to maintain current license, registration, or certification for personnel providing early intervention services.

- (1) Continuing education experience shall include discipline or cross-discipline offerings when the offerings are clearly related to the enhancement of the practice, value, skills, and knowledge of working with the children with special needs, from birth through age five, and their families.
- (2) Where continuing education is a requirement for license, certification, or registration renewal, a minimum of one-third of the required number of credits, units, points, or hours shall focus on the content noted in paragraph (c)(1), except for early childhood special educators, one-third of the required continuing education hours shall be relevant to the children with special needs, from birth through age two, and their families.
- (3) Where there is no continuing education requirement for professional credential renewal, twenty-four continuing education hours in a three-year period shall be required which focus on the content described in paragraph (c)(1).

(d) Aides, assistants, and paraprofessionals in early intervention programs shall work under the supervision of a professional in that discipline according to the standards of that profession. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995.)

28-4-565. Community responsibilities.

(a) Each community shall have a local interagency coordinating council (ICC) that has as one of its purposes the coordination of early intervention services for infants and toddlers with disabilities and their families.

(1) The local interagency coordinating council shall consist of members who reflect the community, including at a minimum the following:

- (A) two parents of children with disabilities;
- (B) a representative of a health or medical agency;
- (C) a representative of an educational agency; and
- (D) a representative of a social service agency.

(2) The names of local interagency coordinating council members shall be submitted to and acknowledged by the state lead agency.

(3) The chair of the council shall be elected by the local interagency coordinating council. The

name of the chair shall be communicated to the state lead agency.

(4) The responsibilities of the local interagency coordinating council include the following:

(A) identifying local service providers who can provide early intervention services to infants and toddlers with disabilities and their families;

(B) advising and assisting local service providers; and

(C) communicating, combining, cooperating, and collaborating with other local councils on issues of concern.

(b) Each community, in collaboration with its local ICC, shall develop a plan describing the system for coordinating early intervention services. The plan shall include the following:

(1) identification of a local lead agency, which shall be acknowledged by the secretary of the state lead agency;

(2) identification of a local fiscal agency, which shall be acknowledged by the secretary of the state lead agency. The local lead agency and local fiscal agency may be the same agency, if the local lead agency is a legal entity;

(3) a description of the child find plan, including assurance that child find activities are available at least monthly;

(4) a description of identified community needs and resources;

(5) a description of written interagency agreements or memoranda of understanding, and how those agreements are used in the development of IFSPs for eligible children and families;

(6) a public awareness program that informs community members about child find activities, the central point of contact for the community, and the availability of early intervention services;

(7) a provision that the services that shall be at no cost to eligible infants and toddlers and their families include the following:

(A) child find activities;

(B) evaluation and assessments;

(C) family service coordination; and

(D) administrative and coordinative activities related to the development, review, and evaluation of the individualized family service plan (IFSP), and implementation of procedural safeguards and other components of the statewide system of early intervention services; and

(8) an assurance that the information regarding the community plan is available in the community.

(c) Each community desiring federal infant-toddler part of IDEA and state funds shall submit an annual grant application to the state lead agency. This grant application shall meet the following requirements:

(1) include the plan for coordination of early intervention services, as described in K.A.R. 28-4-565(b); and

(2) be in compliance with the grant application materials provided by the state lead agency.

(d) Each community shall be required to utilize multiple funding sources for early intervention services for children with disabilities from birth through age two and their families. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-566. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-567. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-568. Surrogate parents.

(a) Participating agencies with the assistance of the Kansas department of health and environment, if needed, shall ascertain the legal relationship between the adult caregiver and the child prior to evaluation and assessment. In Kansas, surrogate parents shall be known as child advocates.

(b) The Kansas department of health and environment, in conjunction with participating agencies, shall assign child advocates to the child if:

- (1) no parents can be identified;
- (2) the public agency, after reasonable efforts, cannot discover the whereabouts of the parents; or
- (3) the child is a ward of the state under the laws of Kansas and parental rights have been severed.

(c) The method used for assigning a child advocate shall be as follows.

- (1) Local agencies shall inform the Kansas department of health and environment upon determining that a child needs a child advocate.
- (2) The Kansas department of health and environment shall assist the local agency in locating an appropriate child advocate or the child advocate shall be assigned under the authority of the Kansas department of health and environment.

(d) The child advocate shall be selected from a list maintained by the Kansas department of health and environment of individuals who have completed training in advocacy for individuals or have demonstrated knowledge of the power, duties, and Kansas functions necessary to provide adequate representation of the child.

(e) The participating agency shall ensure that a person selected as a surrogate parent:

- (1) has no interest that conflicts with the interests of the child whom he or she represents; and
- (2) has knowledge and skills that ensure representation of the child.

(f) A person assigned as a child advocate shall not:

- (1) be an employee of any agency involved in the provision of early intervention or other services to the child; or
- (2) be an employee solely because he or she is paid by a public agency to serve as a child advocate.

(g) A child advocate shall represent the child in all matters related to:

- (1) the evaluation and assessment of the child;
- (2) development and implementation of the child's IFSP, including annual evaluations and periodic reviews;
- (3) the ongoing provision of early intervention services to the child; and

(4) any other rights established under this part. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995.)

28-4-569. Resolution of complaints.

(a) For complaints not resolved informally at the local level, resolution shall be accomplished by the use of mediation, a due process hearing, or both. A parent or an agency providing service shall register with the Kansas department of health and environment a complaint leading to mediation, a due process hearing, or both.

(b) The local lead agency shall, through agreements with local service providers, assure that procedural safeguards are followed and enforced.

(c) The mediation process shall meet the following requirements:

- (1) be offered to parents as an option but shall not delay or extend the 30-day due process procedure;
- (2) be requested by the parents or the agency and have the agreement of both parties before entering into the process; and
- (3) be completed or at impasse within seven calendar days of the local interagency coordinating council's receipt of the complaint.

(d) If at impasse or the time has elapsed, the complaint shall be forwarded to the Kansas department of health and environment within eight days from the time the complaint was registered with the Kansas department of health and environment.

(e) Mediators appointed by the Kansas department of health and environment shall meet the following requirements:

- (1) have knowledge about the provisions of infant-toddler part of IDEA and the needs of, and services available for, eligible children and their families;
- (2) have training in the mediation process;
- (3) shall not be an employee of any agency or program involved in the direct provision of early intervention services or care of the child, and shall not have a personal or professional interest that would conflict with his or her objectivity in implementing the process;
- (4) be selected by mutual agreement of the parents and the local agency; and
- (5) perform the following duties:

- (A) listen to presentations of both parties to find out facts and isolate issues;
- (B) assist in the development of creative alternatives to resolve the complaint;
- (C) facilitate negotiation and decision making;
- (D) provide, if resolution occurs, a written record of the proceedings, including the decision or solution to the participant and the Kansas department of health and environment; and
- (E) forward, if no resolution within the time limit or impasse occurs, the complaint to the Kansas department of health and environment within one day by telephone, followed within two working days by written documentation of the complaint and mediation activities.

(f) Parents' rights in mediation shall consist of the following:

- (1) presenting their complaint and other relevant information and facts;
- (2) hearing the relevant and factual information of the other participants;
- (3) presenting their desired outcome of the complaint and alternative ways to achieve the solution;
- (4) exploring with other parties other possible solutions; and
- (5) having the mediation proceedings conducted in their native language at a convenient time and

place. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-570. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-571 to 28-4-572. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)